

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

WINDROCK, INC.,

Plaintiffs,

v.

**RESONANCE SYSTEMS, INC., VIPER
MONITORING & ANALYSIS, L.P., VIPER
MACHINERY MONITORING
CORPORATION, EDWARD FLANAGAN,
PAUL BEAM, STEVE MCNAIR, AND JOSH
KELLEY,**

Defendants.

Case No. 3:21-CV-00288

**DECLARATION OF CHERYL G. RICE IN SUPPORT OF
DEFENDANT'S OPPOSITION TO PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY JUDGMENT**

I, Cheryl G. Rice declare and attest as follows:

1. I am an attorney at the law firm of Egerton, McAfee, Armistead & Davis, PC, and, along with others in my firm, am counsel of record for Defendants Resonance Systems, Inc. ("RSI"), Viper Monitoring & Analysis, L.P., Viper Machinery Monitoring Corporation, Edward Flanagan ("Flanagan"), Paul Beam ("Beam"), Steve McNair ("McNair"), and Josh Kelley ("Kelley") (collectively "Defendants") in this action. I am a member in good standing of the Tennessee bar and have been admitted to practice before this Court. I have personal knowledge of the facts set forth in this Declaration and, if called to testify, I could and would testify competently thereto under oath.

2. Attached as Exhibit 1 is a true and accurate copy of an organizational chart produced by Plaintiff in discovery in this matter bearing Bates No. WRI0129445.

3. Attached as Exhibit 2 is a true and accurate copy of Plaintiff's Responses to Defendant Resonance Systems, Inc.'s First Set of Requests for Admission, served in this case on December 7, 2022.

4. Attached as Exhibit 3 is a true and accurate copy of a PowerPoint slide produced by Plaintiff in discovery in this matter bearing Bates No. WRI0019872.

5. Attached as Exhibit 4 is a true and accurate copy of Windrock MD Application Manual produced by Plaintiff in discovery in this matter bearing Bates No. WRI0020838-21095.

6. Attached as Exhibit 5 is a true and accurate copy of a Written Consent of the Shareholders and Directors of Viper Machinery Monitoring Corporation dated June 17, 2020 that was produced by Defendants in discovery in this matter bearing Bates No. RSI0013360.

7. Attached as Exhibit 6 is a true and accurate copy of a Written Consent of the Partners of Viper Monitoring and Analysis, L.P. dated June 17, 2020 that Defendants produced in discovery in this matter bearing Bates No. RSI0013324.

8. Attached as Exhibit 7 is a true and accurate copy of an email chain between Dylan Abel and Carlos Rodriguez dated April 14, 2020 that Plaintiff produced in discovery in this matter bearing Bates No. WRI0065431.

9. Attached as Exhibit 8 is a true and accurate copy of an email chain between Dylan Abel and Marek Kos dated April 20, 2020 that Plaintiff produced in discovery in this matter bearing Bates No. WRI0089711. Plaintiff redacted a portion of this document prior to its production in discovery on grounds of privilege.

10. Attached as Exhibit 9 is a true and accurate copy of an email chain between Bryan Blanchard, Mike Jones and others dated April 20, 2020 that Plaintiff produced in discovery in this matter bearing Bates No. WRI0020007-20009.

11. Attached as Exhibit 10 is a true and accurate copy of an email chain between Dylan Abel and Michael Jones dated April 20, 2020 that Plaintiff produced in discovery in this matter bearing Bates No. WRI0021413.

12. Attached as Exhibit 11 is a true and accurate copy of an email chain between Harry Gencorelli, Amanda Colwell and others dated January 29, 2021 that Plaintiff produced in discovery in this matter bearing Bates No. WRI0118087-118088.

13. Attached as Exhibit 12 is a true and accurate copy of an email chain between Paul Mahoney and Bill Broussard that Plaintiff produced in discovery in this matter bearing Bates No. WRI0087314-87316.

14. Attached as Exhibit 13 is a true and accurate copy of a PowerPoint slide produced by Plaintiff in discovery in this matter bearing Bates No. WRI0070294.

15. Attached as Exhibit 14 is a true and accurate copy of a letter from Ken Weber, Esq. to Steven McNair, Ed Flanagan, Josh Kelley, and Paul Beam, dated April 16, 2021 that Defendant produced in discovery in this matter bearing Bates No. RSI0013276-13729.

16. Attached as Exhibit 15 is a true and accurate copy of Plaintiff's Fifth Supplemental Responses to Defendant Resonance Systems, Inc.'s First Set of Interrogatories, served in this case on October 16, 2022.

17. Attached as Exhibit 16 is a true and accurate copy of Plaintiff's Supplemental Responses to Defendant Resonance Systems, Inc.'s First Set of Interrogatories served in this case on October 16, 2022.

18. Attached as Exhibit 17 is a true and accurate copy of an email chain dated August 14, 2020 between Ed Flanagan and Peter Flanagan that Defendants produced in discovery in this matter bearing Bates No. RSI00037144-37145.

19. Attached as Exhibit 18 is a true and accurate copy of an email dated April 23, 2020 produced by Defendants in discovery in this matter bearing Bates No. RSI0000838 between Steve McNair Flanagan and Phillip Magley.

20. Attached as Exhibit 19 is a true and accurate copy of an email chain dated August 13, 2022 between Bill Broussard and Paul Mahoney that Plaintiff produced in discovery in this matter bearing Bates No. WRI0079450-794522.

21. Attached as Exhibit 20 is a true and accurate copy of Plaintiff's Responses to Defendant Resonance Systems, Inc.'s Third Set of Interrogatories and Fourth Set of Requests for Production of Documents served in this case on October 16, 2022.

22. Attached as Exhibit 21 is a true and accurate copy of SEC Form 4 on behalf of ChampionX Corp. dated November 16, 2023 and filed with the United States Securities and Exchange Commission.

23. Attached as Exhibit 22 is a true and accurate copy of an excerpt from the treatise authored by H. Ward Classen, *A Practical Guide to Software Licensing* at 55 (7th ed. 2020).

24. Attached as Exhibit 23 is a true and accurate copy of Plaintiff's Responses to Defendant Resonance Systems, Inc.'s Seventh Set of Requests for Production of Documents served in this case on August 25, 2023

25. Attached as Exhibit 24 is a true and accurate copy of Tab 44 of Exhibit 15 to the Deposition of Windrock pursuant to Rule 30(b)(6), with Mary Chapman as Windrock's corporate representative, taken on November 10, 2023.

26. Attached as Exhibit 25 is a true and accurate copy of excerpts of the reopened Deposition of Windrock pursuant to Rule 30(b)(6), with Mary Chapman as Windrock's corporate representative, taken on November 10, 2023

27. Attached as Exhibit 30 is a true and accurate copy of excerpts of the Deposition of Plaintiff Windrock pursuant to Rule 30(b)(6), with Mary Chapman as Windrock's corporate representative, taken on December 21, 2022.

28. Attached as Exhibit 31 is a true and accurate copy of excerpts of the Deposition of Plaintiff Windrock pursuant to Rule 30(b)(6), with Mary Chapman as Windrock's corporate representative, taken on November 10, 2023.

29. Attached as Exhibit 32 is a true and accurate copy of excerpts of the Deposition of Mary Chapman taken on November 1, 2022.

30. Attached as Exhibit 33 is a true and accurate copy of excerpts of the Deposition of Defendant Joshua D. Kelley taken on November 28, 2022.

31. Attached as Exhibit 34 is a true and accurate copy of excerpts of the Deposition of Defendant Ed Flanagan taken on November 3, 2022.

32. Attached as Exhibit 35 is a true and accurate copy of excerpts of the Deposition of Defendant Paul Beam taken on November 8, 2022.

33. Attached as Exhibit 36 is a true and accurate copy of excerpts of the Deposition of Defendant Steve McNair taken on November 29, 2022.

34. Attached as Exhibit 37 is a true and accurate copy of excerpts of the Deposition of Paul Mahoney taken on November 29, 2022.

35. Attached as Exhibit 38 is a true and accurate copy of excerpts of the Deposition of Mark Atkin taken on November 2, 2022.

36. Attached as Exhibit 39 is a true and accurate copy of excerpts of the Deposition of Plaintiff Windrock pursuant to Rule 30(b)(6), with Mark Atkin as Windrock's corporate representative, taken on May 23, 2023.

37. Attached as Exhibit 40 is a true and accurate copy of excerpts of the Deposition of Marek Kos, taken on December 8, 2022.

38. Attached as Exhibit 41 is a true and accurate copy of excerpts of the Deposition of John O'Donahue, taken on December 14, 2023.

39. Attached as Exhibit 42 is a true and accurate copy of the Plaintiff's application to the United States Copyright Office to register a copyright for Win6310 2.9.

40. Attached as Exhibit 43 is a true and accurate copy of the Plaintiff's submission to the United States Copyright Office of Win6310 2.9.

41. Attached as Exhibit 44 is a true and accurate copy of the Plaintiff's Certificate of Registration issued for Win6310 2.9 by the United States Copyright Office .

42. Attached as Exhibit 45 is a true and accurate copy of the Plaintiff's application to the United States Copyright Office to register a copyright for Windrock MD 5.0.1.

43. Attached as Exhibit 46 is a true and accurate copy of the Plaintiff's submission to the United States Copyright Office of Windrock MD 5.0.1.

44. Attached as Exhibit 47 is a true and accurate copy of the Plaintiff's Certificate of Registration issued for Windrock MD 5.0.1 by the United States Copyright Office.

45. Attached as Exhibit 50 is a true and accurate copy of a Retention Agreement between Mark Atkin and Dover Energy Automation produced by Plaintiff in discovery in this matter bearing Bates No. WRI0000319-323 and executed on October 9, 2017.

46. Attached as Exhibit 51 is a true and accurate copy of an Agreement between Timothy Rolen and Windrock, Inc. produced by Plaintiff in discovery in this matter bearing Bates No. WRI0000359-364 and executed on October 18, 2019.

47. Attached as Exhibit 52 is a true and accurate copy of an Agreement between Tom Greene and Windrock, Inc. produced by Plaintiff in discovery in this matter bearing Bates No. WRI0000351-358 and executed on June 25, 2018.

48. Attached as Exhibit 53 is a true and accurate copy of a Confidentiality and Non-Disclosure Agreement between Tome Greene and Windrock, Inc. produced by Plaintiff in discovery in this matter bearing Bates No. WRI0019657-663 and executed on August 3, 2022.

49. Attached as Exhibit 54 is a true and accurate copy of a Retention Agreement between Zachary Thompson and Plaintiff Windrock, Inc. produced by Plaintiff in discovery in this matter bearing Bates No. WRI0019657-19663 and executed on August 3, 2020.

50. Attached as Exhibit 55 is a true and accurate copy of an Agreement Concerning Confidential Information, Trade Secrets, Non-Competition, Non-Solicitation, Inventions, and Patent Rights between Srinivasa Meda and Apergy Corporation produced by Plaintiff in discovery in this matter bearing Bates No. WRI0000365-370. This document was not executed.

51. Attached as Exhibit 56 is a true and accurate copy of an Agreement Concerning Confidential Information, Trade Secrets, Non-Competition, Non-Solicitation, Inventions, and Patent Rights between Abdullah Mamun and Apergy USA, Inc. produced by Plaintiff in discovery in this matter bearing Bates No. WRI0000215-220 dated on April 5, 2021. This document was not executed.

52. Attached as Exhibit 57 is a true and accurate copy of an Agreement Concerning Inventions, Patent Rights, Trade Secrets, Confidential Information and Noncompetition between William Griffith and Cook Compression produced by Plaintiff in discovery in this matter bearing Bates No. WRI0023379-381 executed on March 3, 2014.

53. Attached as Exhibit 58 is a true and accurate copy of an Employment Agreement between Edward Kelleher and Dover Energy Automation produced by Plaintiff in discovery in this matter bearing Bates No. WRI0021515-518 and executed on December 1, 2017.

54. Attached as Exhibit 59 is a true and accurate copy of an Employee Confidentiality and Employment Agreement between Edward Kelleher and ChampionX, LLC produced by Plaintiff in discovery in this matter bearing Bates No. WRI0021523-21527 and executed on October 1, 2021.

55. Attached as Exhibit 60 is a true and accurate copy of a Retention Agreement between Mike Jones and Dover Energy Automation produced by Plaintiff in discovery in this matter bearing Bates No. WRI0000314-318 and executed on October 24, 2017.

56. Attached as Exhibit 61 is a true and accurate copy of a Confidentiality and Non-Disclosure Agreement between Bryan Blanchard and Windrock, Inc. produced by Plaintiff in discovery in this matter bearing Bates No. WRI0000221-227 and executed on August 2, 2022.

Executed this 5th day of January, 2024 in Knoxville, Tennessee.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ Cheryl G. Rice
Cheryl G. Rice